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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,852	07/05/2007	Takayuki Suzuki	06-04-2799	5046

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Trojan Law Offices  
Rexford Plaza  
9250 Wilshire Boulevard  
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Beverly Hills, CA 90212

EXAMINER
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SAVANI, AVINASH A

ART UNIT	PAPER NUMBER
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3749

MAIL DATE	DELIVERY MODE
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10/26/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/578,852	<b>Applicant(s)</b> SUZUKI ET AL.	
	<b>Examiner</b> AVINASH SAVANI	<b>Art Unit</b> 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-6,8 and 9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-6,8 and 9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Status of Claims***

1. The following action is in response to the applicant's Amendment dated 7/31/2009, that was in response to the Advisory action dated 7/21/2009. Claims 1, 2, 4-6, 8 and 9 are pending, claim 1 has been amended, while claims 2, 4-6, 8 and 9, while claims 3 and 7 were previously cancelled.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1, 2, 4-6, 8 and 9 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 1, 2, 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adams [6488492], further in view of Saito [6093017].

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6. With respect to claim 1, Adams et al discloses: An igniter (2) comprising an igniter body (4), said igniter body provided with a liquefied gas reservoir (11), and said igniter body having a holding portion (6); a rod-like extension (101) which extends from the igniter for [see FIG 1] ejecting gas said rod-like extension having a base portion, said base portion supported for rotation on said holding portion [see FIG 10A]; a lock lever rotatably mounted on a top side of said igniter body for operation by a user and an igniting lever (25) mounted on a bottom side of said lighter body [see FIG 6], a lock lever (34) is capable of engaging said base portion of said rod-like extension to interfere with the rotation of said rod-like extension when the lock lever is operated to release the lock [col 11, line 50-65, col 13, line 3-17]; wherein the rod-like extension rotates with respect to the igniter body so that the angle made between the igniter body and the rod-like extension can be changed to change the direction of the flame port in a free state and locked when the igniting action is to be done [see FIG 10, col 12, line 16-32], although Adams suggests one of ordinary skill would know of different operation of the lock lever [col 8, line 5-10], Adams does not explicitly disclose said lock lever's rotational capabilities as further claimed. Saito teaches a similar device wherein a lock lever is rotatable about two positions to lock and release components of the lighter [see FIG 6, col 35, line 37-46], wherein if used to modify Adams would allow a lock lever to be capable of rotating in a first direction to lock said igniting lever, said lock lever capable of rotating in a second direction opposite to said first direction to engage said base portion of said rod-like extension. In view of Saito, the lock lever is capable of rotating between two positions. It would have been obvious to a person of ordinary skill

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in the art at the time of the invention to provide a lock lever with a rotating action because the option was known in the art, yielding the predictable result of providing a safety mechanism with a degree of difficulty only adults would be able overcome to operate the lighter.

7. With respect to claim 2, Adams et al discloses: An igniter (2) as defined in Claim 1, in which base portion of the rod-like extension has a ring portion (108) that rotates about an annular guide portion (113) of said a holding portion (104) of the igniter body so that the angle made between the igniter body and the rod-like extension can be changed in a free state [col 11, line 14-39]. From the disclosure it is seen that the rod like extension is pivotally coupled at element (108), wherein it is understood that the angle is changeable in a free state.

8. With respect to claim 4, Adams et al discloses: An igniter (2) as defined in Claim 1, in which a part of the lock lever (62) interferes with a part of the rod-like extension, when the lock lever is operated to release the lock, to fix the angle between the igniter body and the rod-like extension [col 13, line 3-17]. It is understood here that after 40°, the lock is released, and the cam follower end (122) will engage in a detent (134) to fix the angle between the lighter body and the rod-like extension. The interaction of the lock lever (62) with the rod like extension is seen from figure 10, wherein there are multiple elements coupled between the lock lever and the rod-like extension.

9. With respect to claim 5, Adams et al discloses: An igniter (2) as defined in Claim 1 or 2 further comprising a tension member (128), which urges the rod-like extension to one direction with respect to the igniter body [col 13, line 55-64]. It is understood that

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the member (128) urges the rod-like extension to one direction, since it follow logically that applying a force against the member (128) will actuate the rod-like member to rotate.

10. Claims 6, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adams et al ['492], further in view of Inoue et al [6505142].

11. With respect to claims 6, as stated in the explanation to claim 1, Adams et al discloses an ignitor (2) with an ignitor body (4), a liquefied fuel reservoir (11), a rod-like extension (101) which extends from the igniter body and has a flame port ejecting gas flame therethrough on the leading end thereof [see FIG 13], wherein the base portion of the rod-like extension is supported for rotation with respect to the igniter body [see FIG 10a], and a ring portion used for rotation (108) [col 11, line 14-39]. Adams et al however does not disclose a balancing weight as further claimed. Inoue teaches a mechanism that is balanced by weights positioned on the ring portion thereof opposite to each other [see FIG 4, abstract, col 11, line 31-48], wherein if used to modify Adams would allow for rotation of the rod-like extension intervening therebetween such that said rod-like extension is held horizontal in a free state as further claimed. In view of Inoue, an apparatus is balanced with oppositely opposed weights in a ring portion. It would have been obvious to a person of ordinary skill in the art at the time of the invention to provide the balancing mechanism as claimed because the technique was known in the art, yielding the predictable result of maintaining a desired position via a compact balancing mechanism.

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12. With respect to claim 8, Adams et al discloses an igniter (2) as defined in Claim 6, having a mechanism for preventing the rotation (116) of the rod-like extension comprising a lock lever (62 or 116), which interferes with a part of the base portion of the rod-like extension to prevent rotation thereof [col 13, line 3-17].

13. With respect to claim 9, Adams et al discloses an igniter (2) as defined in Claim 8, in which the lock lever (62 or 116) locks the igniting action of the rod-like extension in a free state [col 11, line 50-65, col 13, line 3-17]. The disclosure suggests that since the depressing action of the lighting actuation is prohibited, that the lock lever (62) prevents ignition in a free state, as it is seen that the rotation mechanism is still operable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AVINASH SAVANI whose telephone number is (571)270-3762. The examiner can normally be reached on Monday- Friday, alternate Fridays off, 7:30-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven McAllister can be reached on 571-272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Avinash Savani/  
Examiner, Art Unit 3749

/Steven B. McAllister/  
Supervisory Patent Examiner, Art Unit 3749

/A. S./  
10/13/2009